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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,967	08/07/2003	Jeffrey Pierce	7622-86968	1252

24628 7590 05/16/2006

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EXAMINER
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RADA, ALEX P

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/635,967

Applicant(s)

PIERCE ET AL.

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 17, 20 and 27 is/are allowed.
- 6) ☒ Claim(s) 4-16, 18-19, and 21-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4-16, 18-19, and 21-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of claim 1 recites a game apparatus and the preambles of claims 18-19 and 21-26 recite the method according to claim 1, which tends to wonder if applicant is claiming an apparatus or method, furthermore, it is also unclear where claims 18-19 and 21-26 really depend from claim 1. The examiner suggests that applicant verify that each of the dependent claims is properly dependent upon the correct independent or dependent claim(s).

Claim 4 recites the limitation "the first controller" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the second controller" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the third controller" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the minimum and maximum values are adjustable" in line 1-2. There is insufficient antecedent basis for this limitation in the claim.

***Allowable Subject Matter***

3. Claims 4-16, 18-19, and 21-26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

4. Claims 1, 2, 3, 17, 20, and 27 are allowed.

5. The following is an examiner's statement of reasons for allowance: The prior art does not disclose nor teach according to claims 1, 2, 3, 17, 20, and 27, a rotating bin containing game pieces, a moveable claw, a catapult for launching the game piece, a target area, the moveable claw places the game piece on the catapult, and the catapult launches the game piece at the target in combination with the rest of the claimed limitations. The prior cited only discloses game prizes/objects, a moveable claw and a chute. The prior fails to disclose a rotating bin, a catapult, a target area and the moveable claw places the game piece on the catapult, and the catapult launches the game piece at the target in combination with the rest of the claimed limitations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yoshida et al. (US 6,634,940), Fisher et al. (US 6,899,337), Langieri, Jr. Et al. (US 5,851,012), Labrasseur (US 5,435,570), Peretz (US 5,417,435), Oltmann (US 6,889,678), Levin (US 5,344,156),

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Macek (US 4,583,743), Lee et al. (US 5,527,044), Crompton et al. (US 5,513,853), and Fishman et al. (US 5,397,134) disclose different prize acquisition type gaming machines.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

APR

  
XUAN M. THAI  
SUPERVISORY PATENT EXAMINER

TC3700